

**GOVERNMENT OF ANDHRA PRADESH  
ABSTRACT**

Appeal Petition – Srikakulam District - Appeal Petition filed by Sri Danthuluri Ramesh and others of Srikakulam District against the orders of the Commissioner (Appeal) O/o CCLA, Hyderabad – Case Called for Hearing on 24-04-2010 and Heard the Case - Appeal Petition Dismissed – Orders – Issued.

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**REVENUE (ASSIGNMENT –I) DEPARTMENT**

G.O.Ms.No. 402

Dated: 10-05-2010

Read: the following:-

- 1) Revision Petition filed by Sri Danthuluri Ramesh and (6) others of Srikakulam district, Dated Nil, received through the M(Rev.) Peshi No.1460, dt.12.8.2008.
- 2) Govt.Memo.No.42247/Assn.I(1)/ 2008, Revenue Department, Dated 29.11.2008.
- 3) Govt.Memo.No.42247/Assn.I(1)/ 2008, Revenue Department, Dated 5.02.2009.
- 4) Notice for hearing in Govt.Memo.No.42247/Assn.I(1)/ 2008, Revenue Department, Dated 19.03.2009.
- 5) From the CCLA, Hyderabad Letter No.BCW3/156/2010, dt: 04.2010.
- 6) From the Tahsildar, Srikakulam Mandal & district, Rc.No.1211/98 B, Dated 21.04.2010 addressed to the Addl. Secretary to Government, Revenue (Assignment-I) Dept.

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**ORDER:**

Sri Danthuluri Ramesh R/o P.N.Colony, Srikakulam Town & District and six others i.e. Smt Panga Rajani W/o Kodandarao P.N.Colony, Srikakulam, Smt Mylapalli Koteswaramma W/o Koteswararao R/o P.N.Colony, Srikakulam, Smt Belamara Vijaya W/o Ganapathi R/o P.N.Colony, Srikakulam, Smt Mallareddy Jyothi Kumari W/o late Prasadarao R/o P.N.Colony, Srikakulam and Sri D.B.D.B.Kumar S/o late Kannayya R/o P.N.Colony, Srikakulam have preferred an appeal (R.P.) against the orders of the Commissioner of Appeals, Office of the CCLA, in his proceedings No.BCW5 / 563 / 2005 & Batch dt.10.7.08.

2. Government have admitted the Appeal filed by the petitioners. While setting aside the orders passed by the Commissioner of Appeals, Office of the CCLA, Hyderabad in Appeal No.BCW 5/ 563/ 2005. & Batch, Dated 10-07-2008 and the orders passed by the Joint Collector, Srikakulam in Appeal Nos. E4/ 1286 to 04 dated 8.9.2005, and while an interim stay is granted on the orders of the RDO, Srikakulam passed in RC No.505/ 2004-B dated 29-01-2005 in respect of the appellants till the disposal of the RP, the Collector, Srikakulam was requested to furnish the remarks and relevant records on the Appeal filed by the Applicants to Government immediately for taking further course of action.

3. Government have examined Appeal filed by the Appellants, and decided to give an opportunity to the Appellants by way of hearing the case on 24-04-2010. Accordingly, necessary intimations were communicated to the Collector, Srikakulam / Commissioner of Appeals, Hyderabad and requested to furnish the Original records and remarks for taking further course of action. The Collector, Srikakulam was also requested to intimate the date of hearing to the petitioners and furnish the served copy to Government.

4. In response to the above, the Spl.CS. & CCLA, Hyderabad has submitted the records and furnished a note for kind perusal of the Government.

Brief facts of the case are as follows:-

5. After perusal of the lower Court records and grounds of Appeals and other material papers placed before the Commissioner of Appeals, it reveals that a complaint was filed by Sri A. Venkobha Rao, Executive Member, PN Colony  
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Welfare Association No.1355/ 2003 before the Hon'ble AP Lok Ayukta & Upa Lok Ayukta, AP Hyderabad alleging that the MRO, Srikakulam has issued house site pattas on Channel Poramboke which is detrimental for free flow of drainage since pucca constructions have been raised. The RDO, Srikakulam after thorough enquiry and following due procedure has cancelled the house site patta granted by the then MRO, Srikakulam vide his Proceedings Rc.No.505/2004 Dated 29-01-2005 on the ground that the MRO has no powers to grant house site pattas in Channel poramboke under BSO 15 para 3 (4) (ii). Aggrieved by the orders of the RDO, Srikakulam the appellants have filed an Appeal before the Joint Collector, Srikakulam. After perusal of the lower court records and after hearing the appellants and after due procedure the Joint Collector has passed orders vide his proceedings dated 08-09-2005 confirming the orders of the RDO Srikakulam dated 29-01-2005 and dismissed the appeals.

6. It was recorded by the Commissioner of Appeals that the land in Sy.No.141/1 Gujaratipeta Village of Srikakulam Mandal is classified as channel poramboke. The then MRO, Srikakulam have issued house site pattas erroneously to the following persons (Appellants herein) on an objectionable channel poramboke and also have no powers to grant of house site patta in channel poramboke under BSO 15 para 3 (4) (ii).

| Sl. No. | Name of the Appellant | MRO's Proceedings                 | RDO's Proceedings              | Jt. Collector's Proceedings |
|---------|-----------------------|-----------------------------------|--------------------------------|-----------------------------|
| 1       | Ch. Nagireddy         | Rc./No.1111/94<br>Dt: 30-06-1994  | B/ 505/2004,<br>Dt:29-01-2005  | E4/1286/05,<br>Dt:8-9-05    |
| 2       | B.Ravi                | Rc./No.1111/94<br>Dt: 30-06-1994  | B/ 505/ 2004,<br>Dt 29-01-2005 | E4/1287/05,<br>Dt:8-9-05    |
| 3       | D.Ramesh              | Rc.No.1534/94,<br>Dated 15.8.1994 | B/505/2004,<br>Dt 29-01-2005   | E4/1288/05,<br>Dt:8-9-05    |
| 4       | P.Rajani              | Rc.No.1068/90<br>Dated 24-06-90   | B/505/2004,<br>Dt 29-01-2005   | E4/1291/05,<br>Dt:8-9-05    |
| 5       | M.Koteswa-Ramma       | Rc.No.1068/90<br>Dated 24-06-90   | B/505/2004,<br>Dt 29-01-2005   | E4/1292/05,<br>Dt:8-9-05    |
| 6       | B.Vijaya              | Rc.No.1068/90<br>Dated 24-06-90   | B/505/2004,<br>Dt 29-01-2005   | E4/1293/05,<br>Dt:8-9-05    |
| 7       | M.Jyothi Kumari       | Rc.No.1068/90<br>Dated 24-06-90   | B/505/2004,<br>Dt 29-01-2005   | E4/1294/05,<br>Dt:8-9-05    |
| 8       | D.Ramesh              | Rc.No.1068/90<br>Dated 24-06-90   | B/505/2004,<br>Dt 29-01-2005   | E4/1289/05,<br>Dt:8-9-05    |
| 9       | D.B.D.B. Kumar        | Rc.No.1068/90<br>Dated 24-06-90   | B/505/2004,<br>Dt 29-01-2005   | E4/1290/05,<br>Dt:8-9-05    |

7. The main contention of the appellants are that after grant of house site patta they laid foundation in the vacant site after obtaining loans from the public. Simply because on account of wrong committed by the MRO for issuance of house site patta and contrary to the condition of BSO and that the petitioners / appellants cannot be punished and their rights cannot be deprived for the wrong doings committed by MRO.

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8. Since the land in question is classified as Channel Poramboke the grant of house site pattas in Channel Poramboke is prima facie objectionable. Government have issued certain instructions from time to time that all the water bodies are to be protected and assignment in water bodies is prohibited on the reasons that they shall cause obstruction in supply of water for irrigation as well as drinking water leading to scarcity of water and ecological imbalance.

9. The Executive Engineer Irrigation, Srikakulam in his letter Dated 2.4.2004 has informed that there is an irrigation canal connecting Pedda Tank and Yerra Tank. The surplus water of pedda Tank will flow through the canal to the Yerra Tank. Now there is no ayacut under this canal. Hence it is not useful for Irrigation. It was further informed that the residents of PN Colony are experiencing much difficulty due to unauthorized occupation of the Channel by the Petitioners and others by way of dwelling houses. He further informed that the Revenue authorities have issued pattas without consent of Irrigation Department, and that the question of giving consent at this stage does not arise.

10. The contentions of the appellants / petitioners to regularize their unauthorized occupation on payment of market value cannot be considered as the Government in their orders in GO Ms.No.508 Dated 20-10-1995 have issued certain conditions about regularization of unauthorized occupants where the regularization be strictly limited to the cases of unobjectionable encroachments only. In the instant case, the land in question classified as Channel poramboke and which is objectionable.

11. The subject land belongs to Government as it is classified as Channel Poramboke which is a water body. In view of the Supreme Court orders in SLP No.13695/ 2000 dated 25.7.2001 forest tanks etc., and instructions issued by the Government to remove encroachments if any in Tank etc., and to protect water bodies.

12. Therefore it was ordered by the Commissioner of Appeals that appeals deserves no consideration on merits as well as facts and accordingly dismissed the Appeals by confirming the orders passed by the Joint Collector Dated 8.9.2005.

13. The Tahsildar, Srikakulam (M& Dist.) has sent a report to Government through the Sr.Assistant vide Rc.No.1211/98 B, dt.21.04.2010.

14. Government have examined the Appeal filed by the Appellant in detail, and an opportunity was given to the Petitioners and the case was called for hearing on 24-04-2010 at 4-00 PM.

15. Officials of the Collectors Office, Srikakulam and the three Petitioners were present, and they submitted their contentions before this Court.

16. Heard the Case., and perused the records submitted by the Spl.CS. & CCLA, Hyderabad, and the Tahsildar, Srikakulam Mandal and District.

17. After perusal of the records, Government have observed that the contentions of the appellants / petitioners to regularize their unauthorized occupation on payment of market value cannot be considered as the Government have issued certain orders about regularization of unauthorized occupants where the regularization be strictly limited to the cases of unobjectionable encroachments only. In the instant case the land in question is classified as Channel poramboke which can not be assigned or regularized.

18. The subject land belongs to Government as it is classified as Channel Poramboke which is a water body. In view of the Supreme Court orders in SLP No.13695/ 2000 dated 25.7.2001 forest tanks etc., and instructions issued by the Government to remove encroachments if any in Tank etc., and to protect water bodies.

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19. Therefore the Appeals filed by Sri Danthuluri Ramesh R/o P.N.Colony, Srikakulam Town & District and others i.e. Smt Panga Rajani W/o Kodandarao P.N.Colony, Srikakulam, Smt Mylapalli Koteswaramma W/o Koteswararao R/o P.N.Colony, Srikakulam, Smt Belamara Vijaya W/o Ganapathi R/o P.N.Colony, Srikakulam, Smt Mallareddy Jyothi Kumari W/o late Prasadarao R/o P.N.Colony, Srikakulam and Sri D.B.D.B.Kumar S/o late Kannayya R/o P.N.Colony, Srikakulam and others of Srikakulam Mandal and district deserves no consideration on merits. Accordingly the Appeals (R.P.) filed by the Appellants are hereby dismissed and orders passed by the Lower Courts i.e., the orders of the Joint Collector Dated 8.9.2005, and the orders of the Commissioner of Appeals in BCW5/ 563/ 2005 and Batch, Dated 10-07-2008 are confirmed.

20. Government also hereby cancel the orders issued in Govt.Memo.No.42247/ Assn.I(1)/ 2008-2, dt.05.02.2009, duly vacating the stay orders, by confirming the orders passed by the lower courts.

21. The District Collector, Srikakulam shall take necessary immediate action to evict the petitioners as the land in question classified as Channel poramboke and which is objectionable.

22. The Original records bearing No.CPRT 106/2010 containing CF 99 Pages / NF 9 total 108 pages sent by the Spl.CS & CCLA, Hyderabad in his letter No.CCLA Ref.No.BCW3/156/2010, dt. 04.2010 are herewith returned to the Spl.CS & CCLA, Hyderabad and he is requested to acknowledge the same.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)  
RAJESHWAR TIWARI,  
SECRETARY TO GOVERNMENT.**

To

The District Collector, Srikakulam.

The Spl.CS & CCLA, Hyderabad . (with the Original Records)

Sri Danthuluri Ramesh R/o P.N.Colony, Srikakulam Town & District  
Smt Panga Rajani W/o Kodandarao P.N.Colony, Srikakulam,  
Smt Mylapalli Koteswaramma W/o Koteswararao R/o P.N.Colony, Srikakulam, Smt  
Belamara Vijaya W/o Ganapathi R/o P.N.Colony, Srikakulam,  
Smt Mallareddy Jyothi Kumari W/o late Prasadarao R/o P.N.Colony, Srikakulam Sri  
D.B.D.B.Kumar S/o late Kannayya R/o P.N.Colony, Srikakulam

Copy to the Commissioner, Appeals, O/o the CCLA, Hyderabad

Copy to the Joint Collector, Srikakulam district.

Copy to the RDO, Srikakulam.

Copy to the Tahsildar, Srikakulam Mandal and District.

Copy to the PS to Secretary to Govt.(RT), Revenue Dept.

Stock-file.

**//FORWARDED::BY ORDER//**

**SECTION OFFICER.**